IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 22393 of 1996

Between:

SK. Abbas, S/o SK. Jamal
13/11-118, Peon Basti, Near Head Office,
Kothagudem, Khammam District.

..... PETITIONER

AND

1 A.P.S.R.T.C. rep. by Vice-Chairman & M.D.
Musheerabad, Hyderabad-20.
2 Executive Director,
A.P.S.R.T.C., Karimnagar.
3 Regional Manager A.P.S.R.T.C.
Warangal Region, Hanumakonda,
Warangal Dist.
4 Divisional Manager A.P.S.R.T.C.
Khammam Division, Khammam

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or directions, calling for the records relating to proceedings No.M1/417(i)/91-KTDM dt: 10-1-1992, on the file of the respondents 4, 3 & 2 respectively and set aside the same in so far as against the petitioner with consequential directions to reinstate the petitioner as Driver with continuity of service and attendant benefits including the period of absence as on duty.

Counsel for the Petitioner: MR.G.RAMACHANDRA RAO

Counsel for the Respondents: (SC FOR A.P.S.R.T.C.)

The Court made the following :

ORDER:

1. The petitioner is working as a driver in the respondent-Corporation since 1977. In the year 1991, while he was working as a driver at Bhadrachalam Bus Depot, on 31-01-1991 he was entrusted with the duty of driving a Depot Goods Transport (DGT) vehicle bearing No.AAZ 261 from Karimnagar to Bhadrachalam, after loading certain goods at the Regional work Shop of the 1st respondent-Corporation at Karimnagar. The allegation against the petitioner is that, the petitioner instead of proceeding direct to Bhadrachalam diverted the vehicle towards Markfed Vanaspati Complex at Karimnagar. The further allegation against the petitioner is that he stopped the vehicle at Markfed Vanaspati Complex and got loaded his vehicle with unserviceable spring blades weighing 500 kgs with the help of another person with an intention to commit theft of spring blades. The further allegation against the petitioner is that when the Supervising Officers reached the spot, he was not present and when they questioned him as to why he diverted the vehicle, he refused to give the spot statement. In pursuance of that, a charge sheet was issued to the petitioner on 05-02-1991 and he was kept under suspension by an order dated 30-03-1991. Subsequently, he participated in the enquiry and the enquiry Officer submitted his report on 23-09-1991 finding the petitioner guilty of three charges framed against him and the 4th respondent after issuing a show cause notice and after receiving an explanation from the petitioner passed an order on 10-01-1992 removing the petitioner from service. Aggrieved by the said order of removal the petitioner preferred an appeal on 06-02-1992 with the 3rd respondent and the 3rd respondent through order dated 26-11-1993 directed reinstatement of the petitioner into service

by setting aside the order of removal and imposed the punishment of reduction of pay from Rs.1615/- to the minimum time-scale of pay of Rs.1125-35-1300-45-1885-50-1935 and further ordered that the period of absence from the date of removal till the date of reinstatement be treated as “not on duty” for all purposes. In pursuance of the said order, the petitioner was reinstated into service with effect from 27-12-1993. Subsequently, a review petition on 04-08-1994 to the 2nd respondent was filed. The 2nd respondent by order dated 19-02-1996 modified the punishment imposed by the 3rd respondent and imposed punishment of reduction of pay by two incremental stages for a period of two years and directed restoration of pay to Rs.1615/- from 27-12-1995. The order of the 2nd respondent was silent regarding the treatment of period of absence from the date of removal till the date of reinstatement. The petitioner being aggrieved by the order of the 2nd respondent approached this Court through the present writ petition seeking to set aside the orders of respondents 2 to 4 and to direct the respondents to reinstate the petitioner into service with continuity of service and all attendant benefits.

2. The petitioner contends that when he started at Karimnagar there was a procession of radicals in Karimnagar town. Therefore the police diverted all the vehicles towards the route leading to Markfed Vanaspati Complex in Karimnagar and further stated that by the time he reached Markfed Vanaspati Complex, another driver of the respondent-Corporation stopped him and requested for tools for undertaking repairs to his vehicle. Accordingly, the petitioner gave his tools and when the other person was attending to the said work, he went away to attend calls of nature and by the time he returned, he found three Supervisory staff of the respondent-Corporation and on going to them they asked him as to why he has stopped the vehicle at that place and he explained them that the other driver stopped him with a request to lend his tools for the repair of his vehicle. The petitioner further contended that the Supervisory Staff did not record any statement of the petitioner at the spot and no statement was recorded from any other person at the spot against him. Therefore, the allegations made against him in the charge sheet are not true. He further submitted that the copies of the certain statements were not furnished to him and that the enquiry Officer did not follow the procedure prescribed under the Rules. All these contentions were raised by the petitioner before the respondents 2 to 4. But, those contentions were not accepted by respondents 2 to 4 and they found the petitioner guilty of the charges framed against him including the charge of

refusing to give a statement on the spot.

3. The orders of respondents 2 to 4 clearly indicate that they considered the material available on record including the evidence recorded during the course of the enquiry. The petitioner also participated in the enquiry and his statement was also recorded in defence during the said enquiry and as respondents 2 to 4 after considering the entire material came to conclusion that the petitioner was guilty of the charges framed against him, I do not find any grounds to interfere with the orders of respondents 2 to 4 finding the petitioner guilty of the charges framed against him.

4. Learned counsel for the petitioner submitted that the 2nd respondent while modifying the punishment imposed by the 3rd respondent did not pass any order regarding the treatment of the period of absence from the date of removal till the date of reinstatement. But, the order of the 3rd respondent clearly indicates that the period of absence was treated as “not on duty”. The order of the 3rd respondent was not disturbed by the 2nd respondent regarding the treatment of period of absence. In the light of the gravity of misconduct committed by the petitioner and in the light of the findings given by the 2nd respondent, I am of the view that the punishment imposed on the petitioner is not disproportionate to the gravity of the misconduct. Since there is a specific finding given by the 3rd respondent regarding the treatment of the period of absence of the petitioner as “not on duty”, I do not find any ground to interfere with the order of the 2nd respondent and there is no need to supplement any further order to the order of the 2nd respondent. I do not find any illegality in the orders passed by respondents 2 to 4 to invoke the extra ordinary jurisdiction under Article 226 of the Constitution of India.

5. The writ petition is accordingly dismissed. No order as to costs.

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16-11-2004

vs/lsk

To

1 The Vice-Chairman & M.D., A.P.S.R.T.C.,
Musheerabad, Hyderabad-20.
2 The Executive Engineer,
A.P.S.R.T.C., Karimnagar.
3 The Regional Manager A.P.S.R.T.C.
Warangal Region, Hanumakonda,
Warangal Dist.
4 The Divisional Manager A.P.S.R.T.C.
Khammam Division, Khammam

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